

10/532618

## INTERNATIONAL SEARCH REPORT

International Application No.

PCT/IB 03/05527

## A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A61K9/12 A61K7/00 A01N25/16 A61K47/24

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61K A01N

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ, EMBASE

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages                                    | Relevant to claim No. |
|------------|---|-----------------------|
| P,X        | WO 03/051294 A (MEDICIS PHARMACEUTICALS)<br>26 June 2003 (2003-06-26)<br>example 1                                    | 1-87                  |
| X          | -----<br>US 5 326 557 A (MALCZWESKI REGINA M ET<br>AL) 5 July 1994 (1994-07-05)<br>See table II<br>the whole document | 1-87                  |
| X          | -----<br>US 5 435 996 A (MALCZWESKI REGINA M ET<br>AL) 25 July 1995 (1995-07-25)<br>the whole document                | 1-87                  |
| X          | -----<br>US 2002/072544 A1 (MILLER DENNIS ET AL)<br>13 June 2002 (2002-06-13)<br>examples                             | 1-87                  |
|            | -----<br>-/-  |                       |

☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

## \* Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&amp;" document member of the same patent family

Date of the actual completion of the international search

5 July 2004

Date of mailing of the international search report

28. 10. 2004

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## C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages   | Relevant to claim No. |
|------------|--|-----------------------|
| X          | US 6 093 408 A (HASENOEHL ERIK JOHN ET AL) 25 July 2000 (2000-07-25)<br>the whole document<br>-----                                | 1-87                  |
| X          | US 5 922 331 A (MAUSNER JACK) 13 July 1999 (1999-07-13)<br>the whole document<br>-----   | 1-87                  |
| X          | US 5 641 480 A (VERMEER ROBERT) 24 June 1997 (1997-06-24)<br>the whole document<br>-----   | 1-87                  |
| X          | US 2002/098215 A1 (SIMONNET JEAN-THIERRY ET AL) 25 July 2002 (2002-07-25)<br>the whole document<br>-----                           | 1-87                  |
| X          | US 2002/035046 A1 (TAHAR MAURICE ET AL) 21 March 2002 (2002-03-21)<br>the whole document<br>-----                                  | 1-87                  |
| Y          | WO 91/11991 A (KABI PHARMACIA AB) 22 August 1991 (1991-08-22)<br>the whole document<br>-----                                       | 1-87                  |
| Y          | US 6 423 323 B2 (NEUBOURG FRITZ) 23 July 2002 (2002-07-23)<br>cited in the application<br>the whole document<br>-----              | 1-87                  |
| Y          | US 5 536 743 A (BORGMAN ROBERT J) 16 July 1996 (1996-07-16)<br>cited in the application<br>the whole document<br>-----             | 1-87                  |
| Y          | US 5 679 324 A (LISBOA LOUIS SERGIO ET AL) 21 October 1997 (1997-10-21)<br>cited in the application<br>the whole document<br>----- | 1-87                  |
| A          | US 5 034 220 A (BURLANT WILLIAM J ET AL) 23 July 1991 (1991-07-23)<br>column 7<br>-----  | 1-87                  |

## INTERNATIONAL SEARCH REPORT

International Application No

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# INTERNATIONAL SEARCH REPORT

International application No.  
PCT/IB 03/05527

## Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.:  
because they relate to subject matter not required to be searched by this Authority, namely:  
Although claims 66-87 are directed to a method of treatment of the human/animal body, the search has been carried out and based on the alleged effects of the compound/composition.
2. ☒ Claims Nos.: 1,16,66 partially  
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:  
see FURTHER INFORMATION sheet PCT/ISA/210
3. ☐ Claims Nos.:  
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

## Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this International application, as follows:

see additional sheet

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:  
1, 16, 66 partially

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1,16,66 partially

A foamable carrier composition comprising 1) hydrophobic solvent, 2) water, 3) foam adjuvant, 4) surfactant, and 5) gelling agent; and a pharmaceutical or cosmetic composition comprising said foamable carrier.

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2. claims: 1,16,66 partially

A foam generator/dispenser (pressurized container) comprising a container and a liquified or compressed gas propellant

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FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box I.1

Rule 39.1(iv) PCT - Method for treatment of the human or animal body by therapy

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Continuation of Box I.2

Claims Nos.: 1,16,66 partially

Present independent claim 1 relates to an extremely large number of possible foamable carrier compositions, namely all those comprising 1) a hydrophobic solvent, 2) water, 3) a foam adjuvant, 4) a surfactant, and 5) a gelling agent (with no restriction or limitation). Said definition covers so many possible options and alternatives lacking support and/or disclosure in the description (Articles 5 and 6 PCT) as to render a meaningful search impossible. It is the same for independent claims 16 and 66. Moreover, said foamable carrier composition is defined by reference to the result to be achieved, expressed in terms of a desirable characteristic or property, namely that upon release of a pharmaceutical or cosmetic composition comprising said foamable carrier composition from a pressurized container it produces a "breakable foam". The claims cover all foamable carrier compositions comprising the components 1)-5) and having this characteristic or property, whereas the application provides support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT for only a very limited number of such compositions. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible.

Further, the claims also lack clarity (Article 6 PCT), because the definition by reference to a result to be achieved only amounts to claiming the technical problem to be solved instead of claiming the relevant technical features which amount to its solution. Moreover, the expression "breakable foam" is unclear. Again, this lack of clarity in the present case is such as to render a meaningful search over the whole of the claimed scope impossible.

Consequently, the search has been carried out for those parts of the claims which appear to be clear, supported and disclosed, namely those parts relating to claims 1, 16 and 66 taken in combination with claims 6 and 12 and the examples.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.

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International Application No

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| Patent document<br>cited in search report | Publication<br>date | Patent family<br>member(s) | Publication<br>date |
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